

COMMISSION OF ENQUIRIES ACT 1952

(60 OF 1952)
(14th August, 1952)

An act to provide for the appointment of Commissions of Inquiry and for vesting such Commissions with certain powers.

BE it enacted by Parliament as follows:-

1. Short title, extend and commencement- (1) This Act may be called the Commissions of Inquiry Act, 1952.

(2) [Note: Subs. By Act 79 of 1971, sec. 2 for sub-sec.(2)] It extends to the whole of India:

Provided that it shall apply to the State of Jam and Kashmir only in so far as it relates to inquiries pertaining to matters relatable to any of the entries enumerated in List 1 or List III in the Seventh to the Constitutions as applicable to that State.

(3) It shall come into force on such date

[Note: 1st October, 1952, vide Notification No. S.R.O.1670, dated the 30th september, 1952, Gazette of India, Extra., Pt. II, sec. 3, p. 861. This Act, as amended by Act 79 of 1971, came into force in the state of Jammu and Kashmir on 6-3-1972 and in the districts of Kohima and Mokokchung in the state of Nagalnd on 15-2-1972, vide Notifiction Nos. 94(E), dated 4th March, 1972 and 74(E), dated 14th February, 1972 respectively, issued under section 15 of Act 79 of 1971.]

as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions- In this Act, unless the content otherwise requires-

(a) "appropriate Government" means-

(i) the Central Government, in relation to a Commission appointed by it to make an inquiry into any matter relatable to any of the entries enumerated in List 1 or List III in the Seventh Schedule to the Constitution , and

(ii) the State Government, in relation to a Commission appointed by it to make an inquiry into any matter relatable to any of the entries enumerated in List II or List III in the Seventh Schedule to the Constitution.

[Note: Added by Act 79 of 1971, sec. 3.] Provided that in relation to the State of Jammu and Kashmir, these clauses shall have effect subject to the modification that-

in sub clause (i) thereof, for the words and figures "List 1 or List II or List III in the Seventh Schedule to the Constitution" , the words and figures, List 1 or List III in the Seventh Schedule to the Constitution as applicable to the State of Jammu and Kashmir" shall be substituted.

In sub clause- (ii) thereof, for the words an figures "List II or list III in the Seventh Schedule to the Constitution, the words and figures

"List III in the Seventh Schedule to the Constitution as applicable to the State of Jammu and Kashmir " shall be substituted.

"Commission" means a Commission of Inquiry appointed under Section 3

"prescribed" means prescribed by rules made under this Act.

2A Construction of references to laws not in force in the State of Jammu and Kashmir- [Note: Ins. by Act 79 of 1971, sec. 4.] Any reference in this Act to a law, which is not in force in the State of Jammu and Kashmir, shall, in relation to that State , be construed as a reference to the corresponding law, if any, in force in that State.

3. Appointment of Commission- (1) The appropriate Government may, if it is of opinion that it is necessary so to do, and shall, if resolution in this behalf is passed by ([Note : Subs. by Act 19 of 1990, sec 2, for certain words.] each House of Parliament or, as the case may be, the Legislature of the State, by notification in the Official Gazette, appoint a Commission of Inquiry for the purpose of making an inquiry into any definite matter of public importance and performing such functions and with such time as may be specified in the notification, and the Commission so appointed shall make the inquiry and perform the functions accordingly.

Provided that where any such Commission has been appointed to inquire into any matter-

a. by the Central Government, no State Government shall, except with the approval of the Central Government, appoint another Commission to inquire into the same matter for so long as the Commission appointed by the Central Government is functioning.

b. by a State Government, the Central Government shall not appoint another Commission to inquire into the same matter for so long as the Commission appointed by the State Government is functioning, unless the Central Government is of opinion that the scope of the inquiry should be extended to two or more States.

2. The Commission may consist of one or more members appointed by the appropriate Government, and where the Commission consists of more than one members, one of them may be appointed as the Chairman thereof.

3. [Note: Ins by Act 79 of 1971, sec.5.] The appropriate Government may, at any stage of an inquiry by the Commission fill any vacancy which may have arisen in the office of a member of the Commission (whether consisting of one or more than one member).

4. The appropriate Government shall cause to be laid before ([Note : Subs. by Act 19 of 1990, sec 2, for certain words.] each House of Parliament, or, as the case may be, the Legislature of the State), the report, if any, of the Commission on the inquiry made by the Commission under sub section (1) together with a memorandum of the action taken thereon, within a period of six months of the submission of the report by the Commission to the appropriate Government. [Note: Sub section (5) and (6) omitted by Act 19 of 1990, sec. 2, which were inserted by Act 36 of 1986, sec. 2 (w.e.f. 14-5-1986).

4. Powers of Commission- The Commission shall have the powers of a

- civil court, while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908) in respect of the following matters, namely-

[Note: Subs. by Act 79 of 1971, sec. 6, for certain words] Summoning and enforcing the attendance of any person from any part of India and examining him on oath.

- Requiring the discovery and production of any document.
- receiving evidence on affidavits
- requisitioning any public record or copy thereof from any court or office
- issuing commissions for the examination of witnesses or documents
- Any other matter which may be prescribed.

5. Additional powers of Commission- (1) Where the appropriate Government is of opinion that, having regard to the nature of the inquiry to be made and other circumstances of the case, all or any of the provisions of sub section (2) or sub section (3) or sub section (4) or sub section (5) should be made applicable to a Commission, the appropriate Government may, by notification in the Official Gazette, direct that all or such of the said provisions as may be specified in the

notification shall apply to that Commission and on the issue of such a notification, the said provisions shall apply accordingly.

(2) The Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of the inquiry [(Note:- Ins. by Act 79 of 1971, sec.7) and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 and section 177 of the Indian Penal Code, 1860 (45 of 1860)].

(3) The Commission or any officer, not below the rank of a Gazetted Officer, specially authorised in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any books of account or other documents relating to the subject matter of the inquiry may be found, and may seize any books of accounts or documents or take extracts or copies therefrom, subject to the provisions of section 102 and section 103 of the Code of Criminal Procedure, 1898 (5 of 1898), in so far as they may be applicable.

(4) The Commission shall be deemed to be a civil court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code (45 of 1860) is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1898 (5 of 1898), forward the case to a magistrate having jurisdiction to try the same and the magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case had been forwarded to him under section 482 of the Code of Criminal Procedure, 1898.

(5) Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860).

5B. [(Note:- Ins. by Act 63 of 1988, sec.2) Power of Commission to appoint assessors- The Commission may, for the purpose of conducting any inquiry, appoint persons having special knowledge of any matter connected with the inquiry as assessors, to assist and advise the Commission in the inquiry and the assessors shall be entitled to such traveling and other expenses as may be prescribed.]

6. Statements made by persons to the Commission- No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement.

Provided that the statement

- is made in reply to a question which he is required by the Commission to answer, or
- is relevant to the subject matter of the inquiry

6A. Persons not obliged to disclose secret process of manufacture of goods in certain cases- [Note: Ins. by Act 79 of 1971, sec. 10, for sec. 7.] Except in cases where a Commission is expressly required to inquire into the process of manufacture of any goods, nothing in this Act shall be deemed to compel any person giving evidence before the Commission to disclose any secret process of manufacture thereof.

7. Commission to cease to exist when so notified- [Note: Subs. by Act 79 of 1971, sec. 10, for sec. 7.] (1) The appropriate Government may, by notification in the Official Gazette, declare that-

(a) a Commission other than a Commission appointed in pursuance of a resolution passed by ([Note: Subs. by Act 19 of 1990, sec. 3, for certain words] each House of Parliament or, as the

case may be, the Legislature of the State) shall cease to exist, if it is of opinion that the continued existence of the Commission is unnecessary.

(b) a Commission appointed in pursuance of a resolution passed by ([Note: Subs. by Act 19 of 1990, sec. 3, for certain words] each House of Parliament or, as the case may be, the Legislature of the State shall cease to exist if a resolution for the discontinuance of the Commission is passed by ([Note: Subs. by Act 19 of 1990, sec. 3, for certain words] each House of Parliament or, as the case may be, Legislature of the State.

(2) Every notification issued under sub section (1) Shall specify the date from which the Commission shall cease to exist and on the issue of such notification, the Commission shall cease to exist with effect from the date specified therein.

8. Procedure to be followed by the Commission- The commission shall, subject to any rules that may be made in this behalf, have power to regulate its own procedure (including the fixing of places and times of its sittings and deciding whether to sit in public or in private) [Note: certain words omitted by Act 79 of 1971, sec. 11.]

8A. Inquiry not to be interrupted by reason of vacancy or change in the constitution of the Commission- [Note: Ins. by Act 79 of 1971, sec. 12.] (1) Where the Commission consists of two or more members, it may act notwithstanding the absence of the Chairman or any other member or any vacancy among its member.

(2) Where during the course of an inquiry before a Commission, a change has taken place in the constitution of the Commission by reason of any vacancy having, been filled or by any other reason, it shall not be necessary for the Commission to commence the inquiry a fresh and the inquiry may be continued from the stage at which the change took place.

8B. Persons likely to be prejudicially affected to be heard ? If, at any stage of the inquiry, the Commission-

(a) considers it necessary to inquire into the conduct of any person or

(b) is of opinion that the reputation of any person is likely to be prejudicially affected by the inquiry.

The commission shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence.

Provided that nothing in this section shall apply where the credit of a witness is being impeached.

8C. Right of cross examination and representation by legal practitioner- The appropriate Government, every person referred to in section 8B and, with the permission of the Commission, any other person whose evidence is recorded by the Commission.-

(a) May cross- examine a witness other than a witness produced by it or him,

(b) may address the Commission and

(c) may be represented before the Commission by a legal practitioner, or with the permission of the Commission, by and other person.

9. Protection of action taken in good faith- No suit or other legal proceeding shall lie against the appropriate Government, the Commission or any member thereof, or any person acting under the direction either of the appropriate Government or of the Commission in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders may thereunder or in respect of the publication, by or under the authority of the appropriate government or the Commission, of any report, paper or proceedings.

10. Members, etc., to be public servants- Every member of the Commission and every officer appointed or authorised by the Commissioner in exercise of functions under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal code, 1860 (45 of 1860).

10A. Penalty for acts calculated to bring the Commission or any member thereof into disrepute- [Note: Ins. by Act 79 Of 1971, sec. 13.] (1) if any person, by words either spoken or intended to be read, makes or publishes any statement or does any other act, which is calculated to bring the Commissioner or any member thereof into disrepute, he shall be punishable with simple imprisonment for a term which may extend to six months, or with fine, or with both.

(2) [Note: Subs. by Act 63 of 1988, sec. 3, for sub section (2).] Notwithstanding anything contained in the code of Criminal Procedure, 1973 (2 of 1974), when an offence under sub section (1) is alleged to have been committed, the High Court may take cognizance of such offence, without the case being committed to it, into a complaint in writing, made by a member of a commission or an officer of the Commission authorised by it in this behalf.

(3) Every complaint referred to it in such section (2) shall set forth the facts which constitute the offence alleged, the nature of such offence and such other particulars as are reasonably sufficient to give notice to the accused of the offence alleged to have been committed by him.

(4) No High Court shall take cognizance of an offence under sub section (1) unless the complaint is made within six months from the date of which the offence is alleged to have been committed.

(5) A High Court taking cognizance of an offence under sub section (1) shall try the case in accordance with the procedure for the trial of warrant cases instituted otherwise than on a police report before a court of a Magistrate.

Provided that the personal attendance of a member of a Commission as a complainant or otherwise is not required in such trial.

(6) Notwithstanding anything contained in the code of Criminal Procedure, 1973 (2 of 1974) an appeal shall lie as a matter of right from any judgement of the High Court to the Supreme Court, both on facts and on law.

(7) Every appeal to the Supreme Court under sub section (6) shall be preferred within a period of thirty days from the date of judgement appealed from

Provided that the Supreme Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant has sufficient cause for not preferring the appeal within the period of thirty days.

Provided that a Commission shall sit in private on a request being made by the Central Government in that behalf.

11. Act to apply to other inquiring authorities in certain cases- Where any authority (by whatever name called), other than a Commission appointed under section 3, has been or is set up under any resolution or order of the appropriate Government for the purpose of making an inquiry into any definite matter of public importance and that Government is of opinion that all or any of the provisions of this Act should be made applicable to that authority, that Government may, subject to the prohibition contained in the proviso to sub section (1) of section 3, by notification in the Official Gazette, direct that the said provisions of this Act shall apply to that authority, and on the issue of such a notification that authority shall be deemed to be a Commission appointed under Section 3 for the purposes of this Act.

12. Power to make rules- (1) The appropriate Government may, by notification in the Official Gazette, make rules to carry out the purpose of this Act.

- a. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- the term of office and the conditions of service of the members of the Commission
- b. the manner in which inquiries may be held under this Act and the procedure to be followed by the Commission in respect of the proceedings before it.
- c. The powers of civil court which may be vested in the Commission
(cc) [Note: Ins. by Act 79 of 1971, sec. 14.] The travelling and other expenses payable to assessors appointed under section 5B, and to person summoned by the Commission to give evidence or to produce documents before it.
- d. any other matter which has to be, or may be, prescribed.

(3) [Note: Subs. by Act 4 of 1986, sec2 and sch., for certain words (w.e.f. 15-5-1986)] Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or (in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid) both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) [Note: Ins. by Act 4 of 1986, sec2 and sch., (w.e.f. 15-5-1986)] Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before the Legislature